

APPLICANT(S): HUNT, Stephen, William  
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#### REMARKS

The present Response and Amendment is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Applicant asserts that the present invention is new, non-obvious and useful. Favorable reconsideration and allowance of the application is respectfully requested.

#### Status of Claims

Claims 1-46 are pending in the application. Claims 1-10, 11-26, 28-43, 45 and 46 have been rejected. Claims 9, 27 and 44 have been objected to. Claims 1, 2, 16, 19, 20, 34 and 37 have been amended.

Claims 9, 27 and 44 have been canceled without prejudice or disclaimer. In making this cancellation without prejudice, Applicant reserves all rights in these claims to file divisional and/or continuation patent applications.

Applicant respectfully asserts that the amendments to the claims add no new matter.

#### Allowable Subject Matter

Applicant wish to thank the Examiner for indicating that claims 9, 27 and 44 include allowable subject matter. In the Office Action, the Examiner stated that claims 9, 27 and 44 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Independent claims 1 and 2 have been amended to include the limitations of claim 9, independent claims 19 and 20 have been amended to include the limitations of claim 27 and independent claim 37 have been amended to include the limitations of claim 44.

#### Amendment to the Specification

In the Office Action, the Examiner objected to the Abstract, asserting the Abstract is a PCT abstract. Applicant has amended the Abstract to ensure the number of words is less than 150. The Abstract is in accordance with MPEP section 608.01(b).

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No new matter has been added. Accordingly, Applicant requests withdrawal of this objection.

### CLAIM REJECTIONS

#### 35 U.S.C. § 103(a) Rejection Based on Clapper and Goldstein

In the Office Action, the Examiner rejected claims 1-8, 10-13, 15-26, 28, 30, 31 and 33-36 under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 7,084,765 to Clapper ("Clapper") in view of U.S. Patent No. 4,772,880 to Goldstein et al. ("Goldstein"). Applicant respectfully traverses this rejection of claims 1-8, 10-13, 15-26, 28, 30, 31 and 33-36 under 35 U.S.C. § 103(a), as being unpatentable over Clapper in view of Goldstein in view of the remarks that follow.

The Examiner indicated claims 9 and 27 would be allowable if amended to be in independent form. Claims 1 and 2 now include the limitation of claim 9 and claims 19 and 20 now include the limitation of claim 27. Thus claims 1, 2, 19 and 20 as amended are allowable.

Further, according to M.P.E.P. § 2142, in order to establish a *prima facie* case of obviousness, the prior art references must teach or suggest all the claim limitations.

Without conceding the appropriateness of the combination, Applicant respectfully submits that neither Clapper nor Goldstein, alone or in combination, teach or suggest all the limitations of independent claims 1, 2, 19 and 20 as amended, and therefore a *prima facie* case of obviousness cannot be established by the Examiner with respect to amended claims 1, 2, 19 and 20.

Applicant's independent claims 1, 2, 19 and 20 as amended include, *inter alia*, a processor to count a number of times the device passes a given transmitter.

Neither Clapper nor Goldstein, alone or in combination, disclose a processor which counts the number of times a device passes a given transmitter as is required in Applicant's independent claims 1, 2, 19 and 20, as amended.

Neither Clapper nor Goldstein, alone or in combination, disclose, teach or suggest the features of independent claims 1, 2, 19 and 20 as amended.

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Therefore, Applicant respectfully requests that the rejection of claims 1, 2, 19 and 20 under 35 USC §103(a) as being obvious over Clapper in view of Goldstein be withdrawn.

Each of claims 3-8, 10-13, 15-18, 21-26, 28, 30, 31, and 33-36 depends, directly or indirectly, from one of independent claims 1, 2, 19 and 20, and includes all the features of the claim from which it depends as well as additional distinguishing features, and is therefore allowable.

In view of the above, applicant respectfully requests that the rejection of claims 1-8, 10-13, 15-26, 28, 30, 31 and 33-36 under 35 USC §103(a) over Clapper in view of Goldstein be withdrawn.

#### **35 U.S.C. § 103(a) Rejection Based on Clapper, Goldstein and MacIntyre**

In the Office Action, the Examiner rejected claims 11 and 29 under 35 U.S.C. § 103(a), as being unpatentable over Clapper in view of Goldstein and further in view of U.S. Patent No. 5,283,550 to MacIntyre ("MacIntyre"). Applicant respectfully traverses this rejection of claims 11 and 29 under 35 U.S.C. § 103(a), as being unpatentable over Clapper in view of Goldstein and further in view of MacIntyre in view of the remarks that follow.

Claim 11 depends from amended claim 1, and includes all the features of the claim from which it depends as well as additional distinguishing features. Claim 29 depends from amended claim 19, and includes all the features of the claim from which it depends as well as additional distinguishing features. As discussed above, independent claims 1 and 19 as amended, are allowable over Clapper in view of Goldstein. MacIntyre does not cure the deficiencies of Clapper and Goldstein; therefore, it is respectfully submitted that dependent claims 11 and 29 are likewise allowable.

In view of the above, Applicant respectfully requests that the rejection of claims 11 and 29 under 35 USC §103(a) be withdrawn.

#### **35 U.S.C. § 103(a) Rejection Based on Clapper, Goldstein and French**

In the Office Action, the Examiner rejected claims 14 and 32 under 35 U.S.C. § 103(a), as being unpatentable over Clapper in view of Goldstein and further in view of U.S. Patent No. 6,975,205 to French et al. ("French"). Applicant respectfully traverses this

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rejection of claims 14 and 32 under 35 U.S.C. § 103(a), as being unpatentable over Clapper in view of Goldstein and further in view of French in view of the remarks that follow.

Claim 14 depends from amended claim 1, and includes all the features of the claim from which it depends as well as additional distinguishing features. Claim 32 depends from amended claim 19, and includes all the features of the claim from which it depends as well as additional distinguishing features. As discussed above, independent claims 1 and 19 as amended, are allowable over Clapper in view of Goldstein. French does not cure the deficiencies of Clapper and Goldstein; therefore, it is respectfully submitted that dependent claims 14 and 32 are likewise allowable.

In view of the above, Applicant respectfully requests that the rejection of claims 14 and 32 under 35 USC §103(a) be withdrawn.

#### 35 U.S.C. § 103(a) Rejection Based on Goldstein

In the Office Action, the Examiner rejected claims 37-43 under 35 U.S.C. § 103(a), as being unpatentable over Goldstein. Applicant respectfully traverses this rejection of claims 37-43 under 35 U.S.C. § 103(a), as being unpatentable over Goldstein in view of the remarks that follow.

The Examiner indicated claim 44 would be allowable if amended to be in independent form, and claim 37 now includes the limitation of claim 44, thus claim 37 as amended is allowable.

In addition, Applicant respectfully submits that Goldstein does not teach or suggest all the limitations of independent claim 37 as amended, and therefore a *prima facie* case of obviousness cannot be established by the Examiner with respect to amended claim 37.

Applicant's independent claim 37 as amended include, *inter alia*, a processor which is adapted "to count a number of times the device passes a given transmitter."

Goldstein does not disclose a processor which is adapted to count a number of times a device passes a given transmitter as is required in Applicant's independent claim 37, as amended. Therefore, Applicant respectfully requests that the rejection of claim 37 under 35 USC §103(a) as being obvious over Goldstein be withdrawn.

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Each of claims 38-43 depends, directly or indirectly, independent claim 37, and includes all the features of the claim from which it depends as well as additional distinguishing features, and is therefore allowable.

In view of the above, applicant respectfully requests that the rejection of claims 37-43 under 35 USC §103(a) over Goldstein be withdrawn.

**35 U.S.C. § 103(a) Rejection Based on Goldstein and French**

In the Office Action, the Examiner rejected claim 45 under 35 U.S.C. § 103(a), as being unpatentable over Goldstein in view of French. Applicant respectfully traverses this rejection of claim 45 under 35 U.S.C. § 103(a), as being unpatentable over Goldstein in view of French in view of the remarks that follow.

Claim 45 depends from amended claim 37, and includes all the features of the claim from which it depends as well as additional distinguishing features. As discussed above, independent claim 37 as amended is allowable over Goldstein. French does not cure the deficiencies of Goldstein; therefore, it is respectfully submitted that dependent claims 45 is likewise allowable.

In view of the above, Applicant respectfully requests that the rejection of claim 45 under 35 USC §103(a) be withdrawn.

**35 U.S.C. § 103(a) Rejection Based on Goldstein and MacIntyre**

In the Office Action, the Examiner rejected claim 46 under 35 U.S.C. § 103(a), as being unpatentable over Goldstein in view of MacIntyre. Applicant respectfully traverses this rejection of claim 46 under 35 U.S.C. § 103(a), as being unpatentable over Goldstein in view of MacIntyre in view of the remarks that follow.

Claim 46 depends indirectly from amended claim 37, and includes all the features of the claim from which it depends as well as additional distinguishing features. As discussed above, independent claims 37 as amended, is allowable over Goldstein. MacIntyre does not cure the deficiencies of Goldstein; therefore, it is respectfully submitted that dependent claims 46 is likewise allowable.

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In view of the above, Applicant respectfully requests that the rejection of claim 46 under 35 USC §103(a) be withdrawn.

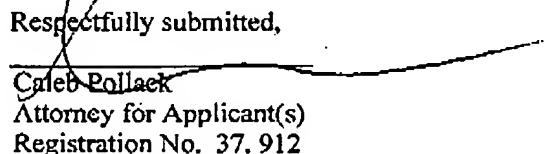
### Conclusion

In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Response and Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Aside from the fee for the one month extension of time, being requested separately, no fees are believed to be due associated with this paper. However, if any additional fees are due, please charge such fees to deposit account No. 50-355.

Respectfully submitted,

  
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